

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

STATE OF NEW MEXICO, *ex rel.*
State Engineer

Plaintiff,

vs.

ROMAN ARAGON, *et al.*,

Defendants.

69cv7941-MV/LFG

RIO CHAMA STREAM SYSTEM

Section 7, Village of Chama

NOTICE AND ORDER TO SHOW CAUSE

To: All Defendants in the Village of Chama Subsection,
Section 7 of the Rio Chama Stream System

Priority Dates:

You are hereby notified that the Court has entered an order requiring you to file an objection with the Court if you disagree with the State’s proposed determination of the priority date for your water rights, or the priority date for any other water rights, for irrigated lands under the pre-1907 ditches located in the Village of Chama Subsection of Section 7 (“Chama Village Subsection”) as described below:

DITCH

PRIORITY DATE

| | |
|----------------------------|------|
| Chama Town Ditch* | 1899 |
| Chama Valley Ditch | 1893 |
| Chama Valley Ditch No. 1 | 1890 |
| Chama Valley Ditch No. 3 | 1890 |
| Tuck Creek Diversion No. 1 | 1900 |
| Unnamed Ditch No. 4 | 1890 |

* with the exception of lands irrigated under a permit or license from the State Engineer as

described below.

These priority dates described above will apply to all individual irrigation water rights served by the ditches listed, unless you or other persons file objections. The priority dates for ditches listed above will also apply to a spring that serves as a source of water for irrigators under those ditches, and which is described in an individual subfile order filed with the Court.

You are hereby notified that you are required to file an objection with the Court if you disagree with the State's proposed determination of the priority date for your water rights, or the priority date for any other water rights, for irrigated lands in the Chama Village Subsection that are irrigated under a final license issued by the Office of the State Engineer, or under an approved permit for the transfer of irrigation water rights, as described below:

| <u>DITCH or SUBFILE</u> | <u>OSE LICENSE</u> | <u>PRIORITY DATE</u> |
|-------------------------------------|--------------------|----------------------|
| CHCV-001-0002 Orlando C. Beasely | No. 967 | February 19, 1915 |
| Chamita Valley Ditch | No. 968 | February 19, 1915 |
| Valley Ditch | No. 1242 | September 27, 1918 |
| Ranch 101 Ditch | No. 1241 | June 7, 1918 |
| M-B Ditch | No. 1974 | November 27, 1931 |

TRANSFERRED RIGHTS

| <u>Move-to Location</u> | <u>OSE PERMIT</u> | <u>PRIORITY DATE</u> |
|---|----------------------------------|----------------------|
| CHCV-001-0003 Mary Jean Miller | No. 1545 & 1699 into 1974-E | December 4, 1922 |
| CHCV-001-0004 Jessie Fisher | No. 1545 & 1699 into 1974-E-A | December 4, 1922 |
| CHCV-001-0005 Chama Valley Independent School District No. 19 | No. 1545 & 1699 into 1974-F | December 4, 1922 |

| | | |
|--|-------------------------------|-------------------|
| CHCV-003-0001 Porter Family Trust | No. 1974-B (3) | November 27, 1931 |
| CHCV-003-0002(B) Dustin Boyd | No. 1974-B & 1974-B (2) | November 27, 1931 |
| CHCV-006-0001 Donald M. Graham Janice Graham | No. 1545 into 1242 & 01792 | December 4, 1922 |
| CHCV-006-0002 Sky Mountain Resort RV Park | No. 1545 into 1242 & 01792 | December 4, 1922 |

You are hereby notified that you are required to file an objection with the Court if you disagree with the State's proposed determination of the following priority dates for the water rights on lands irrigated by the Jicarilla Apache Nation under an approved permit for the transfer of water rights issued by the Office of the State Engineer, or for the water rights on lands irrigated from a pre-basin groundwater well located on the Jicarilla Apache Reservation in the Chama Village Subsection and used for irrigation purposes, as described below:

| <u>Subfile No.</u> | <u>Acres</u> | <u>Ditch and/or Well(s)</u> | <u>Priority Date</u> |
|--------------------|--------------|------------------------------------|----------------------|
| CHCV-001-0006 | 92.5 | Mound Well Willow Creek Well | March 24, 1964 |
| | 181.8 | Little Willow Creek North Ditch | December 4, 1922 |
| | | Mound Well Willow Creek Well | March 24, 1964 |
| | 23.2 | Little Willow Creek North Ditch | February 2, 1926 |
| | | Mound Well Willow Creek Well | March 24, 1964 |

| | | | |
|---------------|-------|---------------------------------------|-------------------|
| CHCV-005-0005 | 9.0 | Little Willow Creek South Ditch | August 1, 1902 |
| | 88.15 | Vaughn Well No. 1 | August 14, 1963 |
| CHCV-006-0006 | 50.75 | Vaughn Well No. 1 | August 14, 1963 |
| | 5.10 | Iron Spring Well | April 25, 1964 |
| | 24.2 | Vaughn Well No. 1 Iron Spring Well | August 14, 1963 |
| CHCV-008-0001 | 8.4 | Bear Canyon Well | May 1, 1964 |
| | 160.6 | Iron Spring Well Bear Canyon Well | April 25, 1964 |
| CHCV-009-0001 | 88.26 | Well RG-19060 | February 17, 1970 |

Irrigation Water Requirements:

You are hereby notified that the Court has entered an order requiring you to file an objection with the Court if you disagree with the State's proposed determination of the irrigation water requirements for surface water irrigation use under pre-1907 ditches located in the Chama Village Subsection, as described below:

- a. The weighted consumptive irrigation requirement (CIR) is 1.05 acre-feet per acre per annum.
- b. The farm delivery requirement (FDR) is 2.63 acre-feet per acre per annum.
- c. The project diversion requirement (PDR) is 4.38 acre-feet per acre per annum.

The ditches in the Chama Village Subsection to which the above amounts apply are the Chama Town Ditch, Chama Valley Ditch, Chama Valley Ditch No. 1, Chama Valley Ditch No. 3, Tuck Creek Diversion No. 1 and Unnamed Ditch No. 4, with the exception of any lands irrigated under a permit

or license from the State Engineer as described below. The irrigation water requirements in the Chama Village Subsection described above do not include diversion requirements associated with stockponds or other impoundments having valid water rights, which will be determined at a later date in these proceedings.

You are hereby notified that you are required to file an objection with the Court if you disagree with the State's proposed determination of the irrigation water requirements for surface water irrigation use on lands in the Chama Village Subsection that are irrigated under a final license issued by the Office of the State Engineer, or under an approved permit for the transfer of irrigation water rights, as described below:

CHCV-001-0002 OSE License No. 967

- a. CIR = 1.05 ac-ft/ac/an.
- b. FDR = 2.0 ac-ft/ac/an.
- c. PDR = 3.33 ac-ft/ac/an

Chamita Valley Ditch: OSE License No. 968

- a. CIR = 1.05 ac-ft/ac/an.
- b. FDR = 2.0 ac-ft/ac/an.
- c. PDR = 3.33 ac-ft/ac/an.

Valley Ditch: OSE License No. 1242

- a. CIR = 1.05 ac-ft/ac/an.
- b. FDR = 1.5 ac-ft/ac/an.
- c. PDR = 2.5 ac-ft/ac/an.

The above irrigation water requirements will apply to all lands irrigated by the Valley Ditch under OSE License No. 1242 (including lands transferred to the Valley Ditch under OSE No. 1545 into 1242 & 01792) with the exception of the 73.9 acres of land described below.

Valley Ditch: OSE License No. 1242

73.9 acres of land in Subfile CHCV-006-0005

- a. CIR = 1.0 ac-ft/ac/an.
- b. FDR = 1.0 ac-ft/ac/an.
- c. PDR = 1.67 ac-ft/ac/an.

A copy of a map prepared by the Office of the State Engineer showing the location of the 73.9 acres of lands described above is available for inspection at the Office of the State Engineer in Santa Fe. Copies of this map shall also included with the Court's Notice/Order mailed to the defendants in Subfile CHCV-006-0005.

Ranch 101 Ditch: OSE License No. 1241

- a. CIR = 1.05 ac-ft/ac/an.
- b. FDR = 1.5 ac-ft/ac/an.
- c. PDR = 2.5 ac-ft/ac/an.

M-B Ditch: OSE License No. 1974

- a. CIR = 1.05 ac-ft/ac/an.
- b. FDR = 1.5 ac-ft/ac/an.
- c. PDR = 2.5 ac-ft/ac/an.

The above irrigation water requirements will apply to all lands irrigated by the M-B Ditch under OSE License No.1974 with the exception of the lands in the locations described below.

M-B Ditch: OSE License No. 1974

3.4 acres of land in Subfile CHCV-003-0003
0.1 acres of land in Subfile CHCV- 003-0004
63.4 acres of land in Subfile CHCV-003-0024
0.2 acres of land in Subfile CHCV-003-0025
0.2 acres of land in Subfile CHCV-003-0026
3.2 acres of land in Subfile CHCV-004-0002

- a. CIR = 1.0 ac-ft/ac/an.
- b. FDR = 1.0 ac-ft/ac/an.
- c. PDR = 1.67 ac-ft/ac/an.

A copy of a map prepared by the Office of the State Engineer showing the location of the lands described above is available for inspection at the Office of the State Engineer in Santa Fe. Copies of this map shall also included with the Court's Notice/Order mailed to the defendants in the above six subfiles.

TRANSFERRED RIGHTS

| <u>Move-to Location</u> | <u>OSE PERMIT</u> | <u>AMOUNT OF WATER</u> |
|-------------------------|-------------------------------|--|
| CHCV-001-0003 | No. 1545 & 1699 into 1974-E | CIR = 1.05 ac-ft/ac/an FDR = 1.5 ac-ft/ac/an PDR = 2.5 ac-ft/ac/an |
| CHCV-001-0004 | No. 1545 & 1699 into 1974-E-A | CIR = 1.05 ac-ft/ac/an FDR = 1.5 ac-ft/ac/an PDR = 2.5 ac-ft/ac/an |
| CHCV-001-0005 | No. 1545 & 1699 into 1974-F | CIR = 1.05 ac-ft/ac/an FDR = 1.5 ac-ft/ac/an PDR = 2.5 ac-ft/ac/an |
| CHCV-003-0001 | No. 1974-B (3) | CIR = 1.05 ac-ft/ac/an FDR = 1.5 ac-ft/ac/an PDR = 2.5 ac-ft/ac/an |
| CHCV-003-0002(B) | No. 1974-B & 1974-B (2) | CIR = 1.05 ac-ft/ac/an FDR = 1.5 ac-ft/ac/an PDR = 2.5 ac-ft/ac/an |
| CHCV-006-0001 | No. 1545 into 1242 & 01792 | CIR = 1.05 ac-ft/ac/an FDR = 1.5 ac-ft/ac/an PDR = 2.5 ac-ft/ac/an |
| CHCV-006-0002 | No. 1545 into 1242 & 01792 | CIR = 1.05 ac-ft/ac/an FDR = 1.5 ac-ft/ac/an PDR = 2.5 ac-ft/ac/an |

You are hereby notified that you are required to file an objection with the Court if you disagree with the State's proposed determination of the following irrigation water requirements for irrigation water use on lands irrigated by the Jicarilla Apache Nation under an approved permit for the transfer of water rights issued by the Office of the State Engineer, or for water rights on lands irrigated from pre-basin groundwater wells located on the Jicarilla Apache Reservation and used for irrigation purposes, as described below:

| <u>Subfile No.</u> | <u>CIR</u> | <u>FDR</u> | <u>PDR</u> |
|--------------------|------------------|------------------------|-----------------|
| CHCV-001-0006 | | | |
| Groundwater | 1.05 ac-ft/ac/an | 2.63 ac-ft/ac/an* | not applicable |
| Surface water | 1.05 ac-ft/ac/an | 1.5 ac-ft/ac/an | 2.5 ac-ft/ac/an |
| CHCV-005-0005 | | | |
| Groundwater | 1.05 ac-ft/ac/an | 2.63 ac-ft/ac/an* | not applicable |
| Surface water | 1.05 ac-ft/ac/an | 1.5 ac-ft/ac/an | 2.5 ac-ft/ac/an |
| CHCV-006-0006 | | | |
| Groundwater | 1.05 ac-ft/ac/an | 2.63 ac-ft/ac/an* | not applicable |
| CHCV-008-0001 | | | |
| Groundwater | 1.05 ac-ft/ac/an | 2.63 ac-ft/ac/an* | not applicable |
| CHCV-009-0001 | | | |
| Groundwater | 1.05 ac-ft/ac/an | 2.63 ac-ft/ac/an* | not applicable |
| | | * measured at the well | |

The irrigation water requirements in the Chama Village Subsection described above do not include diversion requirements associated with stockponds or other impoundments having valid water rights, which will be determined at a later date in these proceedings.

The term “Consumptive Irrigation Requirement” (“CIR”) refers to the quantity of water, expressed in acre-feet per acre per year, exclusive of effective precipitation, that is consumptively used by plants or is evaporated from the soil surface during one calendar year. The term “Farm Delivery Requirement” (“FDR”) refers to the quantity of water expressed in acre-feet per acre per year, exclusive of effective precipitation, delivered to the farm headgate or which is diverted from a

source of water which originates on the farm itself, such as a well or spring, necessary to satisfy the consumptive irrigation requirements of crops grown on a farm in one calendar year. The “Project Diversion Requirement” (“PDR”) or off-farm diversion requirement is defined as the quantity of water, exclusive of effective precipitation, which is diverted from the stream or an off-farm source to satisfy the farm delivery requirement for one calendar year. The irrigation water requirements set forth above do not include diversion requirements associated with stockponds or other impoundments determined to have valid water rights in these proceedings.

If you agree with the priority dates and irrigation water requirements described above, you do not need to take any action. If any objections are filed by any persons, you will be notified of the objections and may participate in the proceedings to resolve those objections. If no objections are filed, the Court will enter an order that recognizes the elements of the water rights of your water rights and the rights of the other irrigation water users in the Chama Village Subsection as described above. If you disagree, you must follow the instructions below.

In the absence of any objections, you will have no other opportunity in these proceedings to object to the determination of priority dates or irrigation water requirements in the Chama Village Subsection, and subsequent *inter se* proceedings in the Chama Village Subsection will not include the opportunity to object to those determinations.

In cases where defendants in the Chama Village Subsection have previously agreed with the State on the priority dates for their water rights or the irrigation water requirements for their water rights, and those priority dates or irrigation water requirements have been incorporated into subfile orders entered by the Court, those priority dates or irrigation water requirements cannot be challenged by those defendants. Other persons with standing may however file objections.

IT IS THEREFORE ORDERED THAT if you object to any of the priority dates stated above, or to the irrigation water requirements for irrigation water use in the Chama Village Subsection as stated above, you must file the form entitled Objection and Response to Notice and Order to Show Cause with the Court, in person or by mail **FOR RECEIPT NO LATER THAN August 1, 2013**

United States District Court Clerk
333 Lomas Blvd. NW, Suite 270
Albuquerque, NM 87102

If you timely file an objection the Special Master will notify you of a mandatory scheduling and pretrial conference, where you will learn how objections will be heard by the Court. This will be your only opportunity to object to these elements of your water rights in the Chama Village Subsection. If you fail to timely object and attend the scheduling and pretrial conference you may not raise objections in the future.

If you have any questions, call or write:

Edward G. Newville
Special Assistant Attorney General
Office of State Engineer
P.O. Box 25102
Santa Fe, NM 87504-5102
(505) 867-7444 telephone
(505) 867-2299 facsimile

or, John W. Utton
Attorney for Asociación de Acéquias
Norteñas de Rio Arriba
Sheehan & Sheehan, P.A.
P.O. Box 271
Albuquerque, NM 87103-0271
(505) 699-1445 telephone
(505) 842-8890 facsimile

IT IS SO ORDERED.

MARTHA VÁZQUEZ
UNITED STATES DISTRICT JUDGE

Approved:

LORENZO F. GARCIA
UNITED STATES MAGISTRATE JUDGE